

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Kelly Lyon	Team: Squad #11	CCRB Case #: 202003879	<input checked="" type="checkbox"/> Force <input type="checkbox"/> Discourt. <input type="checkbox"/> U.S. <input type="checkbox"/> Abuse <input checked="" type="checkbox"/> O.L. <input checked="" type="checkbox"/> Injury		
Incident Date(s) Saturday, 05/30/2020 8:20 PM, Saturday, 05/30/2020 9:30 PM	Location of Incident: The Brooklyn Bridge; and 1 Police Plaza		Precinct: 84	18 Mo. SOL 11/30/2021	EO SOL 5/4/2022
Date/Time CV Reported Wed, 06/03/2020 6:06 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Wed, 06/03/2020 6:06 PM		

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Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. POM Enmanuel Montesino	11896	954146	SRG 2
3. POM Andre Gaddy	01415	966581	081 PCT
4. POM Michael Lamastra	01745	940354	SRG 2
5. POM Jason Rubenstein	24550	931108	SRG 1
6. CCA Jeffrey Maddrey	00000	899501	C A B

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Francesco Dimeo	08376	934775	SRG 1
2. POM Marco Dutan	21080	936535	SRG 3
3. POM James Morgante	07113	958951	SRG 3
4. POM Ivan Lugo	28665	944111	SRG 2

Witness Officer(s)	Shield No	Tax No	Cmd Name
5. POM Allan Pajak	29343	933138	SRG 5
6. POM Alvaro Tobon	28983	940804	SRG 1
7. POM Jason Ciota	01410	951615	SRG 3
8. POM Christophe Foley	08327	955029	SRG 1
9. POM Rafael Rispoli	12456	956201	SRG 2
10. POM Mohamed Yafai	23818	935997	SRG 3
11. POM Frank Green	05220	949058	SRG 5
12. POM Vincent Ippolito	06866	950619	SRG 5
13. POM Edward Weisenburger	18143	952338	SRG 1
14. LT Thomas Carey	00000	918821	SRG 5
15. LT Denis Samuylin	00000	935680	SRG 1
16. PO Thomas Mosher	02905	949371	SRG 2
17. POM Jorge Carpio	05085	940981	SRG 1
18. SGT Charles Miele	04711	939037	SRG 1
19. POM Matthew Kokoruda	18375	944705	SRG 5
20. POM Dennis Ustelimov	13541	957238	SRG 3
21. POM Erik Fischer	26062	955917	SRG 4
22. POM Joseph Ryder	21617	964269	C A B
23. LT Gzim Palaj	00000	946091	SRG 3
24. POM Kevon Husband	18913	958715	081 PCT
25. POM Kevin Thomas	24437	942919	SRG 3
26. POM Brendan King	3712	955010	SRG 3
27. SGT Jose Troncoso	05573	926225	SRG 2
28. POM Elmer Maldonado	00631	966686	081 PCT
29. DC John D'Adamo	00000	913627	SRG
30. SGT Sindy Sanchez	00546	939761	SRG 2
31. POM Justin Adetimirin	12522	965920	081 PCT
32. POM John Loftus	18151	935198	DIS CTL
33. LT Stephen Latalardo	00000	899454	SRG
34. SGT Nikolaos Stefopoulos	04686	944294	SRG 5
35. POM Steven Lancia	08781	939755	PBMS
36. LT Peter Sotiriou	00000	924515	SRG 3
37. SGT Joshua Gregory	01456	949062	SRG 3
38. POM Justin Micozzi	19650	966716	075 PCT
39. SGT Roberto Dominguez	01019	938384	SRG 2
40. SGT William Gaspari	01310	941799	SRG 3
41. DT2 Kaz Daughtry	03581	940052	C A B
42. SGT Joseph Naranjo	04192	952045	SRG 5
43. POM Christian Calvagna	03153	964956	075 PCT
44. POM Richard Kaplan	23199	957725	SRG 4
45. POM Algenis Pena	00846	953228	SRG 4
46. SGT Ernan Vega	02783	948153	SRG 3
47. POM Eric Borbee	22871	962265	075 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
48. POF Keyana Cumberbatchwalters	04620	964468	075 PCT
49. POM Adrian Theobald	31670	955573	075 PCT
50. POM Tyler Hamelburg	06029	963564	075 PCT
51. POM Thomas Dugan	12459	922291	101 PCT

Officer(s)	Allegation	Investigator Recommendation
A.CCA Jeffrey Maddrey	Force: At the Brooklyn Bridge in Brooklyn, Chief Jeffrey Maddrey used physical force against individuals.	
B. Officers	Force: At the Brooklyn Bridge in Brooklyn, officers used physical force against § 87(2)(b)	
C.POM Andre Gaddy	Force: At the Brooklyn Bridge in Brooklyn, Police Officer Andre Gaddy struck § 87(2)(b) with a baton.	
D.POM Michael Lamastra	Force: At the Brooklyn Bridge in Brooklyn, Police Officer Michael Lamastra struck § 87(2)(b) with a baton.	
E.POM Michael Lamastra	Off. Language: At the Brooklyn Bridge in Brooklyn, Police Officer Michael Lamastra made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)	
F.POM Enmanuel Montesino	Force: At the Brooklyn Bridge in Brooklyn, Police Officer Enmanuel Montesino used physical force against § 87(2)(b)	
G.POM Jason Rubenstein	Off. Language: Police Officer Jason Rubenstein made remarks based on § 87(2)(b)'s gender identity.	

Case Summary

On June 3, 2020, § 87(2)(b) filed this complaint with the CCRB online.

On May 30, 2020, at approximately 8:20 p.m., § 87(2)(b) and her roommate, § 87(2)(b) marched over the Brooklyn Bridge into Brooklyn with a large group of protesters including § 87(2)(b)

§ 87(2)(b) and other individuals. As soon as the protesters came off the bridge they were met with a large group of officers including the following: PO Francesco Dimeo, PO Edward Weisenburger PO Jorge Carpio, PO Alvaro Tobon, PO Christophe Foley, Lieutenant Denis Samuylin, Sergeant Charles Miele, and PO Jason Rubenstein of Strategic Response Group (SRG) 1, PO Ivan Lugo, PO Rafael Rispoli, PO Enmanuel Monesino, PO Thomas Mosher, PO Michael Lamastra, PO Roberto Dominguez, Sergeant Jose Troncoso, and Sergeant Sindy Sanchez of SRG 2, PO James Morgante, PO Brendan King, Sergeant Ernan Vega, PO Marco Dutan, PO Jason Ciota, PO Mohamed Yafai, PO Dennis Ustelimov, Lieutenant Gzim Palaj, Lieutenant Peter Sotiriou, Sergeant Joshua Gregory, Sergeant William Gaspari, and PO Kevin Thomas of SRG 3, PO Erik Fischer, PO Algenis Pena, and PO Richard Kaplan of SRG 4, PO Allan Pajak, PO Frank Green, PO Vincent Ippolito, Lieutenant Thomas Carey, Sergeant Joseph Naranjo, PO Nikolaos Stefopoulos, and PO Matthew Kokoruda of SRG 5, Deputy Chief John D'Adamo and Lieutenant Stephen Latalardo of SRG, PO Justin Micozzi, PO Christian Calvagna, PO Eric Borbee, PO Keyana Cumberbatchwalters, PO Adrian Theobald, and PO Tyler Hamelburg of the 75th Precinct, PO Andre Gaddy, PO Kevon Husband, PO Elmer Maldonado, and PO Justin Adetimirin of the 81st Precinct, PO Thomas Dugan of the 101st Precinct, PO Steven Lancia of Patrol Borough Manhattan South, PO John Loftus of Disorder Control, and PO Joseph Rider, Det. Kaz Daughtry, and Chief Jeffrey Maddrey of the Community Affairs Bureau.

§ 87(2)(b) linked arms with eight other women and stood in the roadway as the officers approached. Unidentified protesters threw water bottles and eggs toward the officers and the officers began running toward the protesters. Chief Maddrey instructed Deputy Chief D'Adamo to instruct the SRG officers to begin making arrests (**Allegation A: Force**, § 87(2)(g)). Under these instructions the following events occurred:

Lieutenant Samuylin grabbed § 87(2)(b) by the hand, and he took her to the ground. PO Dimeo assisted in handcuffing § 87(2)(b) and escorted her to the prisoner vans. § 87(2)(b) was taken to the ground by PO Foley. PO Ciota pushed § 87(2)(b) down with his baton. § 87(2)(b) was taken down by an unidentified male sergeant.

At least three unidentified officers used unspecified physical force against § 87(2)(b) (**Allegation B: Force**, § 87(2)(g)).

PO Gaddy pushed § 87(2)(b) down with his baton as she was trying to leave the area (**Allegation C: Force**, § 87(2)(g)). § 87(2)(b) went to help § 87(2)(b) and was allegedly struck in the face with a baton by PO Lamastra who also allegedly called § 87(2)(b) a bitch (**Allegation D: Force**, § 87(2)(g)) and (**Allegation E: Offensive Language**, § 87(2)(g)).

PO Montesino escorted § 87(2)(b) to the prisoner van and pulled her hair while they were walking (**Allegation F: Force**, § 87(2)(g)).

At approximately 9:30 p.m., the prisoners arrived at 1 Police Plaza in Manhattan where they waited inside the prisoner vans for their turn to be processed. While in the prisoner van, PO Rubenstein referred to § 87(2)(b) using male pronouns despite her correcting officers when she first entered the van that she preferred female pronouns (**Allegation G: Offensive Language**, § 87(2)(g)).

§ 87(2)(b) and § 87(2)(b) were issued summonses as a result of this incident. § 87(2)(b) and § 87(2)(b) were arrested because of this incident.

The investigation obtained body-worn camera videos (BR 01, BR 02, BR 03, BR 04, BR 05, BR 06, BR 07, BR 08, BR 09, BR 10, BR 11, BR 12, BR 13, BR 14, BR 15, BR 16, BR 17, BR 18, BR 19, BR 20, BR 21, BR 22, BR 23, BR 24, BR 73, BR 74, BR 75, BR 76, BR 77, BR 78, BR 79, BR 80, BR 81, BR 82, BR 83, BR 84, BR 85, BR 86, BR 87, BR 88, BR 89, BR 90, BR 91, BR 92, BR 93, BR 94, BR 95, BR 96, BR 97, BR 98, BR 99, BR 100, BR 101, BR 102, and BR 103; *videos*, and BR 25, BR 26, BR 27, BR 28, BR 29, BR 104, BR 105, BR 106, and BR 107; *summaries*), seven surveillance footage videos (BR 30, BR 31, BR 32, BR 33, BR 34, and BR 35; *videos* and BR 36; *summary*) three cellphone videos from § 87(2)(b)'s social media accounts (BR 37, BR 38, and BR 39; *videos* and BR 40; *summaries*) two cellphone videos obtained from Twitter and one cellphone video obtained from § 87(2)(b) (BR 41, BR 42, and BR 43; *videos*, and BR 44; *summaries*). Relevant sections are discussed below.

Findings and Recommendations

Allegation (A) Force: At the Brooklyn Bridge in Brooklyn, Chief Jeffrey Maddrey used physical force against individuals.

It was undisputed that Chief Maddrey was the highest-ranking officer on scene.

§ 87(2)(b) consistently stated (BR 45 and BR 46) that she was marching in the front of the protest with a group of women. § 87(2)(b) and eight other women linked arms and stood peacefully. Everyone in § 87(2)(b)'s periphery was walking peacefully, chanting, and carrying signs. § 87(2)(b) did not witness any protesters being violent and was not aware of anyone throwing any projectiles.

Out of nowhere, with no warning, no verbal instructions to move, and no loudspeaker announcements, a large group of officers ran into the group of protesters and started arresting people. § 87(2)(b) observed an officer moving toward her roommate, § 87(2)(b) so § 87(2)(b) started to run away. § 87(2)(b) did not hear any verbal instructions as she ran away. She was running on the sidewalk when Lieutenant Samuylin jumped on § 87(2)(b) and she landed on her back on the grass near the sidewalk. PO Dimeo told her to “stop resisting,” and § 87(2)(b) did not resist. PO Dimeo instructed § 87(2)(b) to put her hands behind her back and she complied. § 87(2)(b) sustained a scrape to the side of her knee and was bruised in a couple of places. § 87(2)(b) stood up and PO Dimeo led § 87(2)(b) to location where they were gathering people who had been arrested.

§ 87(2)(b) stated (BR 53) that she marched over the Brooklyn Bridge into Brooklyn with her friend § 87(2)(b). This was a peaceful protest and § 87(2)(b) did not know any of the other protesters other than § 87(2)(b). There was a line of officers at the end of the Brooklyn Bridge when § 87(2)(b) arrived in Brooklyn. The officers charged toward the protesters and started arresting people, even people who were just observers. § 87(2)(b) and some of the protesters started to run away.

While § 87(2)(b) was trying to run away, § 87(2)(b) fell on top of her, and got arrested. § 87(2)(b) tried to get up off the ground and one or two officers grabbed her by the arms and dragged her approximately 10 feet onto the sidewalk. PO Foley then handcuffed § 87(2)(b). § 87(2)(b) was not sure whether PO Foley was one of the officers who dragged her. § 87(2)(b) was not injured from the dragging.

§ 87(2)(b) did not cooperate in providing a statement (BR 54).

§ 87(2)(b) stated (BR 69) that she went over the Brooklyn Bridge and some people were still in the street, and some were on the sidewalk. § 87(2)(b) stopped at the front of the group of protesters and linked arms with approximately three other people. § 87(2)(b) observed 30 to 50 officers coming toward the protesters, then the officers started charging.

§ 87(2)(b) felt PO Ciota's baton make contact with her stomach as she was pushed onto the ground. § 87(2)(b) fell backward onto her buttocks. Two to three male officers grabbed her arms and dragged her. § 87(2)(b)'s glasses flew off and her shoes came off. § 87(2)(b) sustained bruises to the inside of her arms and knee and scrapes to her legs from being dragged.

§ 87(2)(b) (BR 71) came over the Brooklyn Bridge into Brooklyn and there were officers lined up and they appeared ready to charge. Within minutes of coming off the bridge, the officers came toward the protesters. § 87(2)(b) believed the officers must have been given a signal to go ahead. § 87(2)(b) observed people running. A lot of people ran away to the subway and people backed up into a parking lot. The officers gave a warning but there was not enough time for the protesters to hear that warning. § 87(2)(b) did not hear the whole warning and did not remember what the officers said or whether it was over a loudspeaker.

§ 87(2)(b) was standing in the front when she was taken down by two officers, PO Morgante and an unidentified sergeant. The officers made contact with § 87(2)(b)'s arms and pushed her forward. § 87(2)(b) could not remember which part of her body the officers pushed. § 87(2)(b) went to the ground and was flat on her stomach facing down on the ground. The officers secured § 87(2)(b)'s arms and legs and handcuffed her with flex cuffs. § 87(2)(b) described the sergeant as a Hispanic or East Asian male with a darker complexion, 5'10" tall, with a heavy build.

Deputy Chief D'Adamo stated (BR 52) that he was on Tillary street and observed the group coming over the Brooklyn Bridge onto a service road. Deputy Chief D'Adamo was standing with the commander of Brooklyn North, Chief Maddrey, and was told to engage and make arrests because eggs and bottles were thrown from the crowd toward the SRG officers. Chief Maddrey said they have to start making arrests, so the protesters stop throwing things. Deputy Chief D'Adamo was standing next to Chief Maddrey and he said "John, have your guys go down there let's start making arrests." Deputy Chief D'Adamo relayed that to the supervisors on the scene verbally. Deputy Chief D'Adamo was standing in line with other officers and went down toward the protesters to make arrests with the officers.

Chief Maddrey did not give instructions on arresting specific protesters. They were going there to arrest anyone who was throwing things. Deputy Chief D'Adamo assumed the protesters wanted a confrontation because the protesters were marching toward the police. Deputy Chief D'Adamo remembered seeing eggs and bottles before the protesters reached the officers. Deputy Chief D'Adamo heard officers complain about getting hit with eggs and possibly glass bottles, too.

Deputy Chief D'Adamo did not know of instructions prior to the protesters' arrival. Deputy Chief D'Adamo did not know when he got to the location. Officers were making arrests authorized by the borough commander who authorized those arrests to be made.

SRG officers are trained to disperse a crowd during their six weeks at the academy. One or two weeks deal with crowd management, including passive crowds and aggressive crowds. Deputy Chief D'Adamo considered the May 30, 2020, crowd to be a violent mobile crowd. In a situation like this, SRG is to use minimum force necessary. Specific training on using a baton to disperse a crowd is learned in the police academy and Deputy Chief D'Adamo did not remember the training from 31 years ago. SRG bike officers use their bicycles similar to a baton to disperse a crowd.

On May 30, 2020, the incident ended after officers made multiple arrests and the crowd dispersed and moved on. Afterward, arrest processing took place. Deputy Chief D'Adamo did not play a role in arrest processing, that was handled by lieutenants, sergeants, and officers.

Chief Maddrey stated (BR 112) that pedestrians were walking on the roadway from Manhattan eastbound across the Brooklyn Bridge. Chief Maddrey did not recall the activities of this protest group, including whether they were chanting. Chief Maddrey could not estimate the size of the group. Pedestrians were not allowed on the Brooklyn Bridge roadway without a street permit, it was unlawful assembly, and all of the civilians were subject to arrest. Bystanders to this protest would not be subject to arrest. Chief Maddrey could not recall at what number a group rises to unlawful assembly, but guessed it was at 20 participants. Chief Maddrey attested that the law regarding unlawful assembly states that, "A certain amount of people gathered together without a permit is unlawful assembly." Beyond being in the roadway and blocking traffic, Chief Maddrey could not see any further activity from the group of protesters that was a violation of the law.

Officers from SRG approached the group of civilians marching eastbound on the Brooklyn Bridge roadway. Officers from the 84th Precinct were also present on scene, but Chief Maddrey did not recall if any non-SRG officers assisted SRG in arresting civilians on the Brooklyn Bridge roadway. Chief Maddrey noted that Captain Kenny Perez, the CO of the 84th Precinct, was present on scene. Chief Maddrey did not recall if any Legal Bureau officers were present on scene, or what other commands were present on scene.

Based on the fact that SRG officers responded to this unlawful assembly, Chief Maddrey expected that the SRG officers would begin arresting civilians on the roadway. Chief Maddrey did not recall if any messages were broadcast over loudspeakers or an LRAD system.

When SRG officers approached the protesters, protesters started running away, including jumping off the roadway onto nearby sidewalks, side streets, and into a nearby parking lot. Officers began arresting protesters on the roadway. Chief Maddrey did not recall if officers used any forcible takedowns. Officers made multiple arrests. Chief Maddrey was unsure if officers used handcuffs or flex cuffs. Chief Maddrey did not recall if any non-SRG officers participated in arresting civilians. Chief Maddrey did not get close enough to any arrested civilians to see any visible injuries. Chief Maddrey did not hear any complaints of pain from any protesters. Chief Maddrey left the scene after the arrests concluded. Chief Maddrey was not present when arrested civilians were lodged into prisoner holding vans. Chief Maddrey did not recall any debrief with any high-ranking officers afterwards about this incident.

Chief Maddrey did not specifically recall if he spoke with Deputy Chief D'Adamo on May 30, 2020 but noted that he spoke with Deputy Chief D'Adamo multiple times throughout the protests. Chief Maddrey did not recall speaking with Deputy Chief D'Adamo to direct SRG officers to engage with a crowd of protestors. Chief Maddrey was generally able to ask SRG for assistance but did not recall if he asked SRG for assistance with this incident. Chief Maddrey did not call and ask SRG to arrive to the Brooklyn Bridge on May 30, 2020. During this incident, Chief Maddrey did not recall providing any instructions to any officers. Chief Maddrey did not recall instructing any officer to effect any arrests. Chief Maddrey did not instruct any officer to use force when placing civilians into custody. Chief Maddrey did not instruct any officer on how to take any civilian into custody.

Although Chief Maddrey did not recall giving any instructions to Deputy Chief D'Adamo the investigation is crediting Deputy Chief D'Adamo's statement that Chief Maddrey did give him instructions to send SRG officers to start making arrests because Chief Maddrey did not have a clear recollection of this incident.

Lieutenant Samuylin stated (**BR 47**) that he observed a big crowd of people on the Brooklyn Bridge occupying the roadway and heading toward Brooklyn from the Manhattan side. Lieutenant Samuylin started off by walking toward the protesters. When he approached the group, people started running away. Lieutenant Samuylin observed objects thrown, including a bottle filled with fluid that went right over his head and another that landed seven to 10 feet in front of him. These bottles were filled with unknown fluids. Then a captain or above verbally gave the order to disperse the group but Lieutenant Samuylin did not recall who.

Lieutenant Samuylin and officers ran toward the group of protesters. Lieutenant Samuylin stopped the person closest to him, § 87(2)(b) grabbed her by the left hand, and tried to place the handcuffs on her. § 87(2)(b) did not pull away or try to flee. Lieutenant Samuylin chose § 87(2)(b) because she was the closest protester to him, and she was a part of the group. There was no additional reason for choosing § 87(2)(b). Lieutenant Samuylin probably told § 87(2)(b) verbally that she was under arrest, but he did not remember exactly. She was holding a sign in her right hand. He tried to take her sign and then she took it back. At one point she stumbled, then took a step back and fell over the bush onto the ground. Lieutenant Samuylin fell on top of her because he had been holding her hand. Lieutenant Samuylin did not intentionally take § 87(2)(b) to the ground. Five seconds later, PO Dimeo came over, rolled § 87(2)(b) over, and handcuffed her. Lieutenant Samuylin did

not give instructions to PO Dimeo. § 87(2)(b) did not resist arrest. Lieutenant Samuylin did not observe any injuries on § 87(2)(b) and she never complained of injuries or requested medical attention. Lieutenant Samuylin was not injured during this incident.

PO Dimeo stated (**BR 48**) that when the protesters first approached, they were walking over the Brooklyn Bridge from Manhattan. When the protesters came within throwing distance, protesters started throwing bottles and different objects. Bottles were being thrown right next to PO Dimeo. There were multiple things being thrown but PO Dimeo did not know how many objects or what kind of water bottles there were because he was more concerned with his safety. PO Dimeo did not recall seeing any officers hit by any bottle. PO Dimeo clarified that no objects were thrown directly at him. PO Dimeo was not paying attention to anything the protesters were saying and he did not hear any verbal threats.

A supervisor said to start making arrests and PO Dimeo did not recall who gave the orders. There were multiple officers making arrests in PO Dimeo's general vicinity. The protesters were not given the opportunity to leave at this point because it had been deemed an unlawful assembly. PO Dimeo observed two pairs of legs in the bushes, one was police pants (Lieutenant Samuylin) and one was a protester § 87(2)(b). Lieutenant Samuylin appeared to be having difficulty handcuffing § 87(2)(b). § 87(2)(b) was already on the ground when PO Dimeo first observed her, and he was not involved in getting § 87(2)(b) onto the ground. PO Dimeo stated that it looked like § 87(2)(b) was resisting because they were both on the ground when he first saw her and Lieutenant Samuylin. PO Dimeo instructed § 87(2)(b) to put her hands behind her back, she complied, PO Dimeo flex cuffed her and helped her up. Lieutenant Samuylin did not give PO Dimeo any instructions to assist him. PO Dimeo asked § 87(2)(b) if she was okay and she said, "No, I'm pissed." PO Dimeo asked if § 87(2)(b) was hurt or injured and she said no.

PO Dimeo looked into the air to avoid being hit by any object. As soon as arrests were being made the protesters started scattering and the objects stopped being thrown. By the time PO Dimeo got Ms § 87(2)(b) off the ground and started escorting her away the throwing of objects had stopped. PO Dimeo did not know whether protesters were given an opportunity to leave as he was escorting § 87(2)(b) away. PO Dimeo escorted § 87(2)(b) to a police van and rode with her to 1 Police Plaza in Manhattan.

Lieutenant Samuylin's body-worn camera footage (**BR 01; video** and **BR 25; summary**) opens with Lieutenant Samuylin walking with a group of SRG officers. At 00:40 seconds, the officers begin running and § 87(2)(b) and Lieutenant Samuylin fall into a bush. At 1:00 the audio turns on and § 87(2)(b) says, "I have the right to protest, get off of me." PO Dimeo instructs § 87(2)(b) to put her hands behind her back and handcuffs her.

PO Dimeo's body-worn camera (**BR 06; video** and **BR 26; summary**) opens with § 87(2)(b) on the ground on her back. Lieutenant Samuylin is grabbing § 87(2)(b)'s right arm. § 87(2)(b) rolls over onto her front and PO Dimeo grabs her by the hand. PO Dimeo handcuffs § 87(2)(b) with flex cuffs and helps her stand up. At 1:13 minutes, PO Dimeo asks § 87(2)(b) if she is okay.

§ 87(2)(b) had originally stated that PO Dimeo took her to the ground, but she was not 100% certain it was him. Given the body-worn camera footage, Lieutenant Samuylin's statement, and PO Dimeo's statement, the investigation determined that Lieutenant Samuylin took § 87(2)(b) to the ground and PO Dimeo only assisted in handcuffing her.

PO Foley stated (**BR 55**) precinct officers called for assistance from the mobile field force over the radio, but no specific information was relayed. PO Foley was not given any instructions regarding arresting or summoning protesters. There were officers from other SRG groups and the local precinct on scene. Police bosses from the local precinct and other units were present but PO Foley could not recall who.

When the protesters got closer to the officers' side, they threw eggs and bottles. PO Foley first noticed this when an officer yelled out that bottles were being thrown and he was then hit with

multiple eggs on his pants. He saw the bottles being thrown but was not hit by any bottles. He did not see who threw the bottles, but they were Poland Spring water bottles filled with an unknown substance.

At that point, the police supervisors on scene ruled the protest an unlawful assembly. When a protest is ruled an unlawful assembly, protesters have the option to disperse and if they do not disperse, they will be arrested and given a summons or DAT depending on the seriousness of their actions. Some protesters did disperse by running away into nearby apartment buildings. Officers and supervisors were saying, “Disperse or you’ll be arrested for disorderly conduct!” The officers then began making arrests. NYPD Legal personnel were on scene to give guidance to officers. PO Foley did not hear any instructions given by Legal officers, but any instructions were passed on by police supervisors on scene.

PO Foley then observed § 87(2)(b) interlocking her arm with another female protester, but he did not see § 87(2)(b) throwing objects. She had been told to disperse numerous times. PO Foley separated their arms and placed § 87(2)(b)’s arm behind her back. Neither protester was fighting much, and PO Foley did not recall where he grabbed § 87(2)(b)’s arm, but he most likely grabbed the bicep. PO Foley initially stated that he did not think that § 87(2)(b) went to the ground at any point. § 87(2)(b) did not make claims of pain to him to his knowledge. The other protester was arrested by the other officer, but PO Foley did not recall what happened. PO Foley handcuffed § 87(2)(b) without the assistance of another officer. There was another protester on the ground beside PO Foley, who watched the protester until another officer arrived to handcuff her. He was mainly focused on watching § 87(2)(b).

PO Foley never intentionally dragged § 87(2)(b) on the ground and explained that he got her off the ground by grabbing her arms and shirt and helping her off the ground with another officer. § 87(2)(b) never complained of pain to him.

PO Foley’s body-worn camera footage (**BR 05**; *video* and **BR 25**; *summary*) captures § 87(2)(b) going to the ground in the first 00:13 seconds of the video. § 87(2)(b) appears to land on her buttocks next to § 87(2)(b). Having seen the clip during his interview, PO Foley stated (**BR 58**) that he eased § 87(2)(b) to the ground.

PO Ciota stated (**BR 70**) that he received training on protests from the Disorder Control Unit to move crowds and make mass arrests. PO Ciota was trained to move the crowd when demonstrators were violating the law, or the protest became an unlawful assembly. An assembly becomes unlawful when protesters throw rocks and bottles, and when a police supervisor decides to take action on the group. PO Ciota would not move a crowd or make arrests on his own initiative.

On the date of the incident, PO Ciota responded to a protest at the Brooklyn Bridge. PO Ciota and his fellow SRG officers were on the Brooklyn side of the bridge and the protesters were walking from Manhattan to Brooklyn. The protesters were in the roadway and the officers walked toward them to move them onto the sidewalk. As the officers walked up to the protesters, some of them threw rocks, bottles, and other objects at the officers. The demonstration was then declared to be unlawful by a police boss and the officers moved onto the sidewalk to disperse the crowd and make arrests.

PO Ciota observed § 87(2)(b) attempting to “de-arrest” another protester, which PO Ciota described as her interfering with another officer arresting another protester. PO Ciota then moved in and took § 87(2)(b) into custody. PO Ciota was trained to use his baton as a crowd control device to divide and separate people but said that its specific usage depended on the specific situation. PO Ciota drew his baton during this incident as he intended to use it to disperse the crowd. The baton was therefore in his hands when he ran into § 87(2)(b). PO Ciota used the baton on § 87(2)(b) but he did not strike her. PO Ciota described that he held his baton horizontally in both hands. He observed § 87(2)(b) interfering with another arrest, so he ran into her with his baton in his hands and then fell on top of her. PO Ciota then moved § 87(2)(b) to the prisoner vans and she was transported to the arrest processing center and eventually released her on a desk appearance ticket.

Allegation (B) Force: At the Brooklyn Bridge in Brooklyn, officers used physical force against § 87(2)(b)

PO Montesino issued § 87(2)(b) two summonses for disorderly conduct, obstructing vehicular traffic (BR 59) and for refusing to disperse (BR 60).

§ 87(2)(b) declined to provide a verified statement to the CCRB (BR 56).

In her written testimony to the New York State Office of the Attorney General for the June 17, 2020, hearing on the NYPD's protest response, § 87(2)(b) stated (BR 57) that she was peacefully marching over the Brooklyn Bridge with a crowd of protesters. When she crossed the bridge, the protesters were met with a wall of riot officers. § 87(2)(b) did not observe any bottles being thrown. Suddenly, the officers began charging forward. The people in the front lines did not get a chance to disperse and were charged at, tackled, and arrested. § 87(2)(b) initially started running away, then returned to the sidewalk to film. An officer rushed at § 87(2)(b) and pushed her with a baton. § 87(2)(b) could not disperse and was pinned against a line of bushes. The officer screamed at § 87(2)(b) and ordered her onto the ground. Then two more officers charged at § 87(2)(b) and slammed into her and handcuffed her. The officer who handcuffed § 87(2)(b) was squeezing her arm so hard that it bruised. § 87(2)(b) was then transported to the prisoner vans where her handcuffs were replaced with flex cuffs and were so tight that they caused § 87(2)(b)'s hands to lose circulation and her wrists were bruised and cut.

PO Montesino stated (BR 61) that he issued a summons to § 87(2)(b). § 87(2)(b) had been part of the crowd of protesters that did not disperse. PO Montesino observed this himself however, PO Mosher was the one who was dealing with § 87(2)(b). PO Montesino did not observe PO Mosher use any physical force against § 87(2)(b).

There was no body-camera footage which captured § 87(2)(b)'s arrest.

§ 87(2)(g) § 87(2)(b)

Allegation (C) Force: At the Brooklyn Bridge in Brooklyn, Police Officer Andre Gaddy struck § 87(2)(b) with a baton.

Allegation (D) Force: At the Brooklyn Bridge in Brooklyn, Police Officer Michael Lamastra struck § 87(2)(b) with a baton.

Allegation (E) Offensive Language: At the Brooklyn Bridge in Brooklyn, Police Officer Michael Lamastra made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)

It was undisputed that PO Gaddy pushed § 87(2)(b) down with his baton. It was also undisputed that PO Lamastra struck § 87(2)(b) with a baton, however, whether PO Lamastra struck § 87(2)(b) in the face and called her a "bitch" was disputed.

§ 87(2)(b) (BR 65) was marching over the bridge with her friends, § 87(2)(b) and § 87(2)(b) peacefully protesting. § 87(2)(b) observed a plastic bottle thrown toward officers. § 87(2)(b) heard officers say, "Go, go, go!" and the officers then charged toward the protesters and tackled anyone who was in the way. § 87(2)(b) observed approximately three officers tackle or body slam a female to the ground.

§ 87(2)(b) and § 87(2)(b) were two feet away from the officers when she and § 87(2)(b) yelled at the officers to get off the female who was tackled to the ground. An officer jogged up to § 87(2)(b) and pushed her from behind. § 87(2)(b) fell forward onto her knees and § 87(2)(b) tried to help her up. Approximately four male officers surrounded § 87(2)(b) and § 87(2)(b) observed § 87(2)(b) get hit in head with a baton, causing immediate swelling, and believed an officer called § 87(2)(b) a "bitch," but § 87(2)(b) did not know which officer said it. § 87(2)(b) was hit in the arm with a baton

but did not remember at what point she was hit. § 87(2)(b) was unable to describe the officers because “it happened so fast.”

§ 87(2)(b) tried to help by pulling § 87(2)(b) and § 87(2)(b) away from the officers and he ended up getting arrested by three to four officers. § 87(2)(b) observed § 87(2)(b) on the ground, and he was handcuffed, but § 87(2)(b) did not see how he went to the ground and did not see the officer who handcuffed him. Three officers yelled at § 87(2)(b) and § 87(2)(b) to, “move back and leave.” Something happened behind the three officers, either someone threw something, pulled the officers away, or got their attention, and § 87(2)(b) and § 87(2)(b) were able to run away.

§ 87(2)(b) had a bruise on her right upper arm from the baton and her left knee was bruised, swollen and her pants were ripped from being pushed to the ground. § 87(2)(b) s knee was swollen for a couple of weeks. § 87(2)(b) did not seek medical treatment for her injuries.

§ 87(2)(b) stated (BR 66) that she was with her partner, § 87(2)(b) and her two friends, § 87(2)(b) and § 87(2)(b) protesting peacefully and marching across the Brooklyn Bridge. When § 87(2)(b) got to Brooklyn, there were approximately 50 to 100 officers wearing riot gear, marching in uniformed lines, and blocking an intersection. The officers appeared to be in an intimidating military formation. Officers were wearing helmets and holding batons. The protesters veered left toward an apartment building complex that had a courtyard. § 87(2)(b) observed one water bottle fly from the protest side toward the police officers. § 87(2)(b) did not see anything else being thrown. The water bottle landed in-between the protesters and the officers and did not come close to hitting any officer. Thirty officers started charging toward the protesters. Protesters ran into the courtyard of the apartment complex, and approximately five people did not get away from the officers.

Officers pushed several people from behind onto the ground. § 87(2)(b) observed an officer push a female to the ground and then run away. § 87(2)(b) and § 87(2)(b) went to help the female up and three to four officers stood around the female to prevent § 87(2)(b) and § 87(2)(b) from helping the female off the ground. The female got up off the ground and another officer threw her to the ground a second time and the female went “flying.” § 87(2)(b) yelled at officers to let her, and § 87(2)(b) help the female up off the ground.

Then an officer pushed § 87(2)(b) from behind onto her hands and knees. § 87(2)(b) believed officers hit § 87(2)(b) because she was covered in bruises after the incident. § 87(2)(b) went to help § 87(2)(b) off the ground. § 87(2)(b) yelled at the officers to let go of § 87(2)(b) and a different officer said, “Shut up bitch.” § 87(2)(b) came over and grabbed § 87(2)(b) because an officer hit her from behind with a baton. § 87(2)(b) yelled, “I saw you hit her, don’t think I didn’t see you,” at the officer. § 87(2)(b) did not see the officer because he was behind her when he hit her. The officer ran away, and two different officers grabbed § 87(2)(b) and arrested him.

§ 87(2)(b) did not remember being hit in the moment because of adrenaline and she learned later when she visited a doctor that she may have had a minor concussion. Later, § 87(2)(b) had bruising on the right side of her face at her temple, on her right arm, and on her left torso. § 87(2)(b) had a black eye for two weeks after the incident.

§ 87(2)(b) stated (BR 67), that he was with his partner, § 87(2)(b) and his friends, § 87(2)(b) and § 87(2)(b) marching with protesters on the Brooklyn Bridge. There were 50 to 100 officers wearing riot gear in formation at the end of bridge. The officers were marching in lines toward the protesters. § 87(2)(b) observed a water bottle fly from behind the crowd and land 10 feet away from the officers. § 87(2)(b) did not observe anything else being thrown. The officers crouched as the water bottle was in the air and then they started sprinting toward the protesters. There was an apartment complex to the left of the Brooklyn Bridge and the protesters left the area in that direction. Over a loudspeaker, an officer informed the protesters that it was an unlawful assembly, and they need to disperse.

An officer pushed § 87(2)(b) over with a riot shield then walked away. § 87(2)(b) went over to help her up. § 87(2)(b) was on all fours and § 87(2)(b) was bent at the hip trying to lift her up from her shoulders or torso. A different officer came from behind and hit § 87(2)(b) at least three times, in the head, hip, and back, with a baton. § 87(2)(b) was yelling, “You just hit me, what’s your problem?” and the officer called her a “stupid bitch” and told her to “shut up.” § 87(2)(b) was six feet away and ran over and put himself in-between § 87(2)(b) and officer. The officer was not arresting § 87(2)(b) just hitting her. § 87(2)(b) pushed § 87(2)(b) away. Another officer grabbed § 87(2)(b)’s hand and arrested him.

§ 87(2)(b) stated (**BR 68**) that he marched with protesters on the road of the Brooklyn Bridge and travelled toward Brooklyn. When he got over the bridge, § 87(2)(b) observed 200 to 300 officers approximately one football field away. Protest organizers told everyone to veer to the left. § 87(2)(b) heard an officer say, “One, two, three, go.” Police officers began walking toward protesters very slowly.

§ 87(2)(b) looked around for the friends that he came with. He then noticed police officers were running toward protesters. The protesters started running away and § 87(2)(b) continued looking for his friends. § 87(2)(b) saw an officer push down a female. § 87(2)(b) and his friend § 87(2)(b) went to help. § 87(2)(b) was bent over trying to help the female up off the ground when § 87(2)(b) was pushed down by an officer. § 87(2)(b) did not see the officer who pushed her because he was bent down. § 87(2)(b) extended his arms to try to help § 87(2)(b) up and he heard an officer say, “Get him.” Then a group of officers grabbed § 87(2)(b) and arrested him. § 87(2)(b) observed another officer run up to his friend, § 87(2)(b) only observed that officer from behind and his baton was out. § 87(2)(b) learned that the officer hit § 87(2)(b) with a baton causing injury to her eye but he was not able to observe the baton make contact with her.

PO Gaddy initially stated (**BR 64**) that he did not recall using his baton during this protest. PO Gaddy’s understanding of the use of the baton at a protest was that he could use the baton to push people back. PO Gaddy described holding a baton with two hands, one on each end, and thrusting it forward. PO Gaddy stated that they are trained to avoid the head and go for the upper torso area. PO Gaddy explained that the baton is used for compliance.

PO LaMastra stated (**BR 113**) that he and at least 50 officers were assigned to the foot of the Brooklyn Bridge in Brooklyn where they awaited protesters that had been in Manhattan and were crossing the Brooklyn Bridge. PO LaMastra did not remember any specific instructions he received prior to the protesters coming over the Brooklyn Bridge into Brooklyn. PO LaMastra stated that typically when his unit responded to a protest officer do not usually take individual action, rather they wait to be advised as to when to take enforcement action.

Approximately 100 protesters came over the Brooklyn Bridge on the inbound side of the Brooklyn Bridge walking in the roadway. The protesters began moving to the pedestrian path as the officers approached them. Within a couple of minutes, the first third of the group began to throw objects, including clear water bottles, toward officers. PO LaMastra did not recall any bottles striking any officers, but the bottles did land within inches of officers who were in a tight formation.

The protest was then deemed an unlawful assembly and officers were instructed to make arrests. PO LaMastra heard the announcement on the LRAD. He did not know who specifically made the decision to declare it an unlawful assembly. There were no specific instructions regarding making arrests, however, once it was declared an unlawful assembly officers began arresting those who refused to disperse and those who were throwing objects. PO LaMastra personally observed several people throwing objects.

PO LaMastra was toward the front of the line of officers. The protesters throwing the objects were not in the first few lines of protesters. PO LaMastra and officers bypassed the people in the front of the protest and attempted to arrest the protesters who were throwing objects. The protesters in the front broke apart and scattered. The protesters throwing the objects ran into a

neighboring residential courtyard. Officers chased a few into that area and some protesters ran past and officers did not continue perusing them.

Some officers apprehended a couple of the protesters who were throwing objects. PO LaMastra's role was to make sure no one was interfering with the arrests taking place behind him. Some protesters stayed to observe what was happening. Some of these protesters attempted to de-arrest those being placed under arrest. There were eight to ten people attempting to de-arrest protesters. These protesters were trying to reach out to those getting arrests to pull them away and move past the officers effecting the arrests. PO LaMastra stated this was a safety threat to both the officers effecting the arrests and the protesters who were under arrest because people could get bumped into or fall on one another and injuries could occur.

PO LaMastra and other officers made a perimeter around the officers effecting arrests. PO LaMastra issued verbal commands to these protesters and had to push some back as well. PO LaMastra did not specifically recall what he said to protesters but stated he likely said, "Get back." PO LaMastra did not recall seeing any officers in his general vicinity striking any protesters with a baton. To keep the perimeter around officers, PO LaMastra held his baton horizontally to make sure no one got past him. People did attempt to charge and get past, and PO LaMastra used his baton in a horizontal position to push them back. PO LaMastra pushed back three to four protesters with his baton in the torso, shoulders, and waist area of their bodies. PO LaMastra pushed with his baton horizontally in front of his chest four to five times. Nobody complained of injury and there were no apparent injuries. PO LaMastra's baton did not make contact with anyone's face or head. PO LaMastra did not recall swinging his baton at protesters. The protesters that PO LaMastra pushed did place their hands on PO LaMastra which he assumed was to get past him to get to the protesters being arrested. PO LaMastra did not recall any protester grabbing him.

During his interview, LaMastra's body-worn camera footage (**BR 78; video, BR 105; summary**) was played from 00:22 seconds to 00:57 seconds during which PO LaMastra pushes § 87(2)(b) with his baton. The baton appears to make contact with the § 87(2)(b)'s right shoulder blade. § 87(2)(b) grabs § 87(2)(b) and PO LaMastra swings his baton at § 87(2)(b). PO LaMastra stated that he remembered striking § 87(2)(b) somewhere on either her torso or back. PO LaMastra did not see himself make contact with § 87(2)(b)'s head in this video clip.

PO Gaddy's body-worn camera (**BR 17; video and BR 28; summary**) at 00:37 seconds shows PO Gaddy approaching a group of officers. § 87(2)(b) is behind the officers wearing a pink bucket hat. An unidentified officer appears to grab § 87(2)(b). At 00:43 seconds, § 87(2)(b) runs toward officers and tries to help § 87(2)(b) off the ground and PO LaMastra swings a baton and strikes § 87(2)(b). At 00:45 seconds, PO Gaddy extends his baton in front of his chest and makes contact with § 87(2)(b)'s back. § 87(2)(b) was on her knees and the baton appears to cause her to fall forward onto her elbows.

This video clip was played for PO Gaddy during his CCRB interview (**BR 64**) which refreshed PO Gaddy's memory regarding his baton. PO Gaddy observed officers surrounded by three people and he was trying to get them to move back. PO Gaddy did not know these officers. PO Gaddy used his baton to disperse § 87(2)(b). § 87(2)(b) was moving but she was there for a period of time, so PO Gaddy used his baton to push her away from the area. PO Gaddy did not receive any instructions regarding pushing people who are already on the ground. PO Gaddy pushed § 87(2)(b) to the ground while she was on her knees trying to get up because she appeared to be moving toward another officer and he wanted to clear the space around that officer. PO Gaddy did not prepare a Threat, Resistance, and Injury (TRI) report and did not think he would have to since there was no arrest made. The video clip was played again, and PO Gaddy stated he did not see the interaction between § 87(2)(b) and PO LaMastra, the officer at the left side of the screen. PO Gaddy never heard any officer call § 87(2)(b) a bitch.

PO Gaddy's body-worn camera (**BR 17; video and BR 28; summary**) was also played for PO LaMastra during his interview (**BR 113**) from 00:35 seconds to 00:44 seconds. PO LaMastra stated that he did see himself holding his baton with his right hand and it was possible that he

swung it, but he did not have independent recollection of what he did while he was holding his baton with his right hand. PO LaMastra just wanted to keep protesters away. PO LaMastra did not see any other officer strike § 87(2)(b) with a baton.

Based on PO Gaddy's and PO Lamastra's body-worn camera footage, the investigation was unable to identify the female who was pushed to the ground as described by § 87(2)(b) and § 87(2)(b). Additionally, the footage was not clear enough to identify the first officer who grabbed § 87(2)(b) nor did the footage capture any audio of an officer allegedly calling § 87(2)(b) a "bitch." Although neither § 87(2)(b) nor § 87(2)(b) described PO Gaddy striking § 87(2)(b) with his baton, the body-worn camera footage clearly shows that PO Gaddy pushed § 87(2)(b) down with his baton after she was already on the ground and attempting to get up. Neither PO Lamastra's body-worn camera footage nor PO Gaddy's body-worn camera footage clearly depicted whether PO Lamastra struck § 87(2)(b) in the face with his baton.

Patrol Guide procedure 221-01 (**BR 49**) states that force may be used when it is reasonable to place a person in custody or to prevent escape from custody. Any application of force must be reasonable under the circumstance and the following should be considered in determining whether it is reasonable: The nature and severity of the crime/circumstance, actions taken by the subject, duration of the action, immediacy of perceived threat or harm to the subject, MOS, or bystanders, whether the subject is actively resisting custody, whether the subject is attempting to evade arrest by flight, number of subjects in comparison to number of MOS, size, age, and condition of subject compared to that of the MOS, subject's violent history, presence of hostile crowd or agitators, and whether the subject is apparently under the influence of stimulants/narcotics.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (F) Force: At the Brooklyn Bridge in Brooklyn, Police Officer Emmanuel Montesino used physical force against § 87(2)(b) § 87(2)(b)

It was undisputed that PO Montesino grabbed § 87(2)(b)'s hair after she spit at the ground. § 87(2)(g).

§ 87(2)(b) (**BR 72**) was marching in a protest near the front. § 87(2)(b) and the other protesters came off the Brooklyn Bridge near an apartment complex and were met by many officers who appeared to be waiting for the protesters. Someone from the crowd threw a water bottle toward officers. It did not hit anyone but came close to the officers. The officers then charged the crowd.

People started running toward the apartment complex. Officers started tackling and throwing people to the ground. People were dragged and arrested. § 87(2)(b) observed people resisting as they were being grabbed by officers. § 87(2)(b) started to leave then decided to come back and record. § 87(2)(b) observed two people on the ground, one of whom was § 87(2)(b) who was bleeding from scratches on her arms and face. § 87(2)(b) did not see how § 87(2)(b) got to the ground.

An officer shoved § 87(2)(b) and she moved his hand off of her. Then two officers tackled her to the ground and tore off her weave hair extension out of her hair and left it on the sidewalk. § 87(2)(b) was handcuffed escorted by PO Montesino and PO Rispoli toward the prisoner vans. As they were walking to the vans, § 87(2)(b) spat on the ground in front of her. § 87(2)(b) did not spit at any officer as they were behind her. PO Montesino told her to stop and said, "Don't do that," and grabbed her by her natural hair and started dragging her down the street by her hair.

§ 87(2)(b) was arrested for unlawful assembly and disorderly conduct, obstructing traffic, and refusing to disperse (**BR 58**).

§ 87(2)(b)'s video shows (**BR 43**; *video* and **BR 44**; *summary*) at 1:07 minutes, someone says, "Move back." Then § 87(2)(b) appears to go to the ground based on the camera angles. At 1:42 minutes, an officer picks up § 87(2)(b)'s phone off the ground. At 2:05 minutes, § 87(2)(b) says, "What the fuck are you doing? Are you fucking kidding me [...] pull my fucking hair out?" The video does not capture any visuals of what is happening.

PO Montesino (**BR 61**) observed protesters crossing the Brooklyn Bridge into Brooklyn on the roadway. PO Montesino stated that from his general training on protests, he learned that if giving an order to disperse the person must follow it otherwise, they will be issued a summons or arrested. When PO Montesino's unit arrived, protesters were told to get out of the roadway or face a fine or arrest over an LRAD. PO Montesino did not remember who was speaking into the LRAD. PO Montesino took this as an instruction to arrest protesters. PO Montesino stated that an assembly becomes an unlawful one when people start throwing bottles, rocks, etc., and it is no longer peaceful. On May 30, 2020, protesters threw water bottles toward the officers. PO Montesino did not remember seeing any officer get hit by a bottle.

§ 87(2)(b) was filming on her cellphone when she got too close to an officer effecting an arrest. There was a sergeant, Sgt. Sanchez, telling § 87(2)(b) to back up. PO Montesino told § 87(2)(b) she could continue to record all she wanted if she backed up and she did not comply. PO Montesino extended his arm, placed it on § 87(2)(b)'s chest, and told her to back up. § 87(2)(b) smacked PO Montesino's hand away and started to back up. Because § 87(2)(b) smacked PO Montesino's hand, he felt it was an assault and she was not going to go willingly. PO Montesino then grabbed § 87(2)(b) by the arms to her to put her on the ground and placed her under arrest. PO Rispoli only helped handcuff § 87(2)(b).

PO Montesino felt that since § 87(2)(b) backed away, she could have resisted handcuffing. PO Montesino stated that generally, if a person is not following instructions, it is tactically more effective to place them on the ground to put them in handcuffs. PO Montesino stated that he guided § 87(2)(b) to the ground, as opposed to throwing her onto the ground. PO Montesino did not observe any injuries on § 87(2)(b) and she did not complain of any pain or request medical attention.

While PO Montesino and PO Rispoli were walking § 87(2)(b) to the prisoner vans, § 87(2)(b) spat twice toward officers that were three to four feet away, so PO Montesino grabbed § 87(2)(b)'s hair and pushed her face down for approximately four to five seconds to prevent her from spitting at more officers and other people. PO Montesino said, "Stop, stop," and she stopped spitting. PO Montesino stated that he grabbed § 87(2)(b)'s hair because he did not want to get spat on, so he did what was necessary to prevent her from spitting on him. PO Montesino did not grab § 87(2)(b)'s hair to intentionally cause pain, only to prevent her from spitting on him and other officers.

PO Montesino's body-worn camera (**BR 18**; *video* and **BR 29**; *summary*) shows at 00:17 seconds, PO Rispoli is bent over or kneeling on the ground directly in front of PO Montesino and appears to be handcuffing § 87(2)(b) who is on the ground on and out of the frame. At 00:25 seconds, PO Montesino is handcuffing § 87(2)(b). PO Montesino helps her up off the ground and begins escorting her away with PO Rispoli.

At 1:00 minute, PO Montesino appears to be grabbing § 87(2)(b) by the hair and telling her to “stop.” At 1:22 minutes, PO Montesino lets go of her hair. PO Montesino and PO Rispoli bring her to a prisoner van where she eventually gets in and the video ends.

After viewing the clip during his interview, PO Montesino acknowledged (BR 66) that he held § 87(2)(b)'s hair for longer than five seconds and stated that he held her hair for as long as he did to prevent her from turning her head and spitting on him.

Patrol Guide procedure 221-01 (BR 49) states that force may be used when it is reasonable to place a person in custody or to prevent escape from custody. Any application of force must be reasonable under the circumstance and the following should be considered in determining whether it is reasonable: The nature and severity of the crime/circumstance, actions taken by the subject, duration of the action, immediacy of perceived threat or harm to the subject, MOS, or bystanders, whether the subject is actively resisting custody, whether the subject is attempting to evade arrest by flight, number of subjects in comparison to number of MOS, size, age, and condition of subject compared to that of the MOS, subject's violent history, presence of hostile crowd or agitators, and whether the subject is apparently under the influence of stimulants/narcotics.

New York State Penal Law § 240.10 (BR 50) states that a person is guilty of unlawful assembly when they assemble with four or more people for the purpose of engaging or preparing to engage with them in tumultuous and violent conduct likely to cause public alarm, or when, being present at an assembly which either has or develops such purpose, they remain there with intent to advance that purpose.

New York State Penal Law § 240.20 (BR 63) states that a person is guilty of disorderly conduct when, with intent to cause public inconvenience, annoyance or alarm, obstructs vehicle traffic or congregates with other persons in a public place and refuses with a lawful order of the police to disperse.

§ 87(2)(b), § 87(2)(g)

Allegation (G) Offensive Language: At 1 Police Plaza in Manhattan, Police Officer Jason Rubenstein made remarks based on § 87(2)(b)'s gender identity.

It was undisputed that at the prisoner vans, prior to being transported to 1 Police Plaza in Manhattan, § 87(2)(b) corrected an officer when she said, “It’s her not him,” in reference to her preferred pronouns.

§ 87(2)(b) declined to provide a statement (BR 51).

§ 87(2)(b) stated (BR 45) and (BR 46) that when she reached 1 Police Plaza in Manhattan, she was moved to PO Rubenstein's van. There were 11 other people in the van with § 87(2)(b). PO Rubenstein was standing at the back of the van when she entered it. Inside the van, there were ten females and two males. § 87(2)(b) recognized several of the individuals from the protest including § 87(2)(b). § 87(2)(b) had a cut on her head and arm and asked for her wounds to be disinfected. She had sweat and blood dripping from her eyes and was unable to wipe it off. Other people started asking for an officer to clean her wounds. Eventually an officer cleaned § 87(2)(b)'s wounds and put on a Band-Aid.

§ 87(2)(b) was in the van for approximately one and a half hours before going into the Mass Arrest Processing Center. During this time, PO Rubenstein repeatedly misgendered § 87(2)(b) even after being corrected several times.

§ 87(2)(b) stated (BR 67) that he was in the van with § 87(2)(b) identified by the investigation as § 87(2)(b). An officer referred to § 87(2)(b) as a “he” and § 87(2)(b) told the officer that her pronoun was “she.” § 87(2)(b) did not hear any officer call her a “she”

afterward, but he was not aware whether any officer referred to her as a “he” either after being corrected. § 87(2)(b) had scrapes on her hand or elbow and asked the officers for a Band-Aid. It took a while for § 87(2)(b) to get medical treatment because the officers were refusing at first. An officer eventually gave § 87(2)(b) a Band-Aid.

PO Rubenstein stated (**BR 114**) that at 1 Police Plaza, PO Rubenstein did not recall whether there was a long wait to get in. If someone had requested bandages PO Rubenstein would have given them one from his first aid kit. PO Rubenstein did not have an independent recollection of anyone asking for a bandage. PO Rubenstein did not recall anyone specifically asking him or his partner to go into their personal property to retrieve alcohol wipes and bandages.

During his CCRB interview, PO Rubenstein was asked to explain his understanding, as a New York City police officer, of how to handle someone when they provide their preferred pronouns to which he responded, “Well their preferred pronouns is how they want to be viewed but as far as putting them in the van, males have to be seated by males and females have to be seated by females. So that’s why we would ask that question. And if it’s something that looks questionable and we have to find out, we have to ask, because we can’t tell sometimes. It’s not something we would want to pursue anymore to make the person uncomfortable.”

PO Rubenstein was shown his body-worn camera footage (**BR 22; video, BR 26; summary**) from 1:50 minutes to 2:44 minutes. This clip depicted § 87(2)(b) entering the prisoner van. This clip did not independently refresh PO Rubenstein’s memory regarding this incident. PO Rubenstein did not have an independent recollection of § 87(2)(b) providing her preferred pronouns. PO Rubenstein stated based on the clip, “It sounded like [PO] Ahmed asked her or him and then she said the opposite. I don’t remember what they said whether it was a guy or a girl.”

PO Rubenstein stated that it sounded like § 87(2)(b) corrected PO Ahmed about her preferred pronouns, “When he asked her male or female, or him, it was a her or him, he got corrected from her, or him, or her.” PO Rubenstein did not remember if PO Ahmed interacted with § 87(2)(b) again at 1 Police Plaza. PO Rubenstein did not recall PO Ahmed referring to § 87(2)(b) as a male after she specifically told him she was a female.

PO Rubenstein did not recall addressing § 87(2)(b) as he/him/his after she had provided her preferred pronouns. PO Rubenstein stated that if § 87(2)(b) had been a female, he “would have stuck her with females so [he] would not have any reason to do that [call her by he/him/his]. If she was genetically male, she would have to sit with another male.” PO Rubenstein added, “If that was the case then I would have referred to him as him to another police officer because going into the jail cells they’re not going to put her/him in a cell with females, because it was a him.” PO Rubenstein mentioned that there was sometimes a separate cell for “those people that are separate from both populations. But the next person would have to be notified of that, and if they were to overhear me say that to that person, I can see how they would get offended, but it’s not necessarily like I meant it in an offensive way, any time I would say that would be informative of the next officer.” PO Rubenstein stated that this was what he always did, he did not independently recollect what he did during this specific incident. PO Rubenstein also mentioned that he does not disrespect people on purpose.

PO Rubenstein’s body-worn camera (**BR 22; video, BR 26; summary**) shows at 2:34 minutes, § 87(2)(b) says, “Her, not him,” and an officer says, “I’m sorry.” § 87(2)(b) then enters the prisoner van.

Patrol Guide procedure 203-10 (**BR 115**) states that members of service shall address the public using pronouns, titles of respect, and preferred name appropriate to the individual’s gender identity/expression as expressed by the individual.

§ 87(2)(b), § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) and § 87(2)(b) have been parties (**BR 116**).
- Chief Maddrey has been a member of service for 30 years and named a subject in six additional CCRB complaints and 21 allegations, three of which were substantiated.
 - CCRB #9501293 involved substantiated allegations of physical force, a threat of arrest, and a discourteous word. There were no Board recommendations.
- PO Gaddy has been a member of service for three years and this is the first CCRB complaint to which he has been named a subject.
- PO Lamastra has been a member of service for 15 years and named a subject in two additional CCRB complaints and four allegations, none of which were substantiated.
- PO Montesino has been a member of service for eight years and named a subject in one additional CCRB complaint and one allegation which was not substantiated.
- PO Rubenstein has been a member of service for 19 years and named a subject in four additional CCRB complaints and six allegations, one of which was substantiated.
 - CCRB #200918099 involved a substantiated allegation of a stop. The Board recommended charges and the NYPD imposed Instructions.

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- § 87(2)(b) filed a Notice of Claim with the City of New York claiming injuries to her physical and emotional well-being, loss of past or future income and for past or future medical expenses, and other economic damages and seeking damages to be determined by a jury as redress (**BR 117**).
 - On January 28, 2022, a call was placed to the New York City Office of the Comptroller to inquire about any 50-H Hearings and a message was left.
- § 87(2)(b) filed a Notice of Claim with the City of New York claiming personal injury and seeking \$10,000,000,000.00 as redress (**BR 118**).
 - On January 28, 2022, a call was placed to the New York City Office of the Comptroller to inquire about any 50-H Hearings and a message was left.
- § 87(2)(b)

Squad No.: 11

Investigator: <u>Kelly Lyon</u>	Inv. <u>Kelly Lyon</u>	<u>3/4/2022</u>
Signature	Print Title & Name	Date

Squad Leader: <u>Edwin Pena</u>	IM <u>Edwin Pena</u>	<u>03/04/22</u>
Signature	Print Title & Name	Date

Reviewer:

Signature

Print Title & Name

Date